

CIVIL SERVICE COMMISSION MINUTES

May 17, 2000

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Sigrid Pate
Mary Gwen Brummitt
Roy Dixon
Gordon Austin
Barry Newman

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
May 17, 2000

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
4, 5, 9, 10			

COMMENTS Motion by Brummitt to approve all items not held for discussion; seconded by Dixon. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Austin: Dennis Hayes, Esq., on behalf of **Alisa Brady, Esq.**, former employee of the Department of the Alternate Public Defender, appealing her employment status at the time she was failed on probation by the Department of the Alternate Public Defender.

REGULAR AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda Items unless additional time is requested at the outset and it is approved by the President of the Commission.

MINUTES

1. Approval of the Minutes of the regular meeting of April 19, 2000.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Brummitt: Richard L. Pinckard, Esq., on behalf of **Robert Merrill**, Sheriff's Department, appealing an Order of Termination from the Sheriff's Department.

Confirmed.

SETTLEMENT AGREEMENTS

3. Commissioner Austin: Dennis Hayes, Esq., on behalf of **Alisa Brady, Esq.**, former employee of the Department of the Alternate Public Defender, appealing her employment status at the time she was failed on probation by the Department of the Alternate Public Defender.

RECOMMENDATION: Approve Settlement Agreement.

Report from Commissioner Austin and Settlement Agreement approved.

SELECTION PROCESS

Complaints

4. **Angela Rackley**, Protective Services Worker II, Health and Human Services Agency, appealing her non-selection for the classification of Protective Services Worker III in the Health and Human Services Agency.

RECOMMENDATION: Deny Request.

Appellant addressed the Commission, setting forth reasons why she felt that her non-promotion to Protective Services Worker III was unfair. In the past two years, Ms. Rackley had received a performance evaluation that was rated "Does Not Meet Expectations", which she appealed. After meeting with Ms. Rackley and conducting an investigation, the appeal officer upheld the evaluation. Ms. Rackley attributes this non-satisfactory rating to alleged retaliation by her supervisor. Appellant also felt that she was not given a fair chance at advancement, claiming she was qualified for said position. Appellant further noted that some of her co-workers, who may not have been as qualified, were promoted due to lack of proper documentation by their supervisors.

Yvonne Daniels, Department personnel officer for HHSA, addressed the Commission, stating that it is a "widely known fact" that the last two appraisals of an employee must be rated standard or above in order that said employee may be eligible for promotion within HHSA. Ms. Daniels assured the Commission that a formal document is currently being drafted and will be disseminated to all employees and will be included in future employment packets once approved. HHSA does recognize a gray area and the need for improved communication regarding promotions.

Larry Cook, Executive Officer of CSC suggested that an appointing authority has the right to establish job-related standards for promotion/non-promotion. Staff felt that the performance appraisal standard had been fairly well distributed throughout HHSA. He suggested that perhaps Ms. Rackley could be considered for the next PSW III promotion.

The Commission showed concern for the fact that the supervisor who initially rated Ms. Rackley was investigated and removed from the supervisory position, indicating that perhaps a retaliation could have occurred. In that vein, the Commission opted to grant Appellant a hearing.

Motion by Austin to appoint a hearing officer to conduct a Rule X hearing; seconded by Dixon. Carried. Commissioner Brummitt assigned.

5. **Adell Burge**, S.E.I.U. Local 2028 Steward, on behalf of **John McPherson**, **Frances Quemado** and herself, employees of the Department of the Public Defender, appealing the selection process (including the "no-call" practice) for the classification of Legal Procedures Clerk II by the Departments of Human Resources and the Public Defender.

RECOMMENDATION: Deny Request. (Continued from Civil Service Commission meeting of April 5, 2000)

On behalf of herself and the employees Ms. Burge represented, she is satisfied with the interview process that was completed by the Public Defender for Legal Procedures Clerk II.

Ms. Burge requested that the issue of the "no-call" practice, only, be continued to the next CSC meeting.

Carlos Arauz, Director of DHR, spoke to the Commission regarding his understanding of the "no-call" practice, and its usefulness to this County. He stated that it is in the best interest of personnel professionals and prospective employees to interview only those candidates who are the best fit for a particular job. He feels that it is not reasonable to interview all candidates. Mr. Arauz stated that in competing with the private sector, the hiring process should be shortened as much as possible to avoid losing out on the best candidates. He stated that management should have the opportunity to selectively interview and that a candidate has no property right to be interviewed.

Mr. Cook explained that this was the first formal "no-call" complaint that has come before the Commission. He suggested that this matter be set aside for now, but that it can be brought back for further review and discussion in the future.

Motion by Pate to accept staff recommendation; seconded by Dixon. Carried.

Findings

6. Commissioner Brummitt: Barrett J. Foerster, Esq., on behalf of **Karen Hirr, Esq., Alfred LeSane, Esq. and Dianne Wendt-Miller, Esq.** requesting a Rule X hearing regarding their non-selection for the classification of Deputy Public Defender III in the Department of the Public Defender.

FINDINGS & RECOMMENDATION:

In 1999 DPD conducted a selection process for Deputy Public Defender III at which time 31 of the 41 eligible applicants who applied were promoted. Appellants were 3 of the 10 applicants not promoted by DPD. Appellants' complaints were numerous regarding the selection process; the primary complaint being that DPD used interview scores as a final determinant for promotion, rather than the performance of their daily practice. Appellants maintain that the selection process should have been broader in scope; i.e., weight should have been given for training, seniority, performance appraisals, supervisors' input, writing samples, and other factors typically part of a selection process. Remedies sought by Appellants were promotion, back pay with interest, or in the alternative, that they be given another promotional exam consistent with Section 3.1 of the Civil Service Rules.

Appellants testified that previous selection processes were very different from this particular process. In the past, selection processes included many of the elements addressed above, with interviews being much less important. DPD believes that rating qualified candidates exclusively on their performance in an interview is appropriate.

A pre-hearing conference resulted in the Hearing Officer making rulings on Appellants' requests for subpoenas and subpoenas duces tecum. The hearing was conducted on April 25 and 26, 2000 and all evidence was thoroughly considered. The Hearing Officer concluded that the appointing authority has the right to use interviews as the sole measure for promotability and to use factors such as writing samples and supervisor input as confirmatory. The selection process for DPD III revealed some minor flaws, but it was a process appropriate for selecting professional advancement and was in keeping with the merit basis of the personnel system. DPD was given a recommendation to improve future selection processes, particularly in the area of communication. The hearing revealed no bias of any interview panelist against any of the Appellants. It is therefore recommended that Appellants' appeals be denied; the proposed decision shall become effective upon the date of approval by the Civil Service Commission; and the Commission approve and file this report.

**Motion by Brummitt to approve Findings and Recommendations;
seconded by Dixon. Carried.**

7. **Federico Rodriguez**, appeal of removal of his name by the Department of Human Resources from the employment list for Correctional Deputy Probation Officer.

RECOMMENDATION: Ratify item No. 7. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item No. 7 ratified.

COMPULSORY LEAVE

Appeals

8. Bradley Fields, Esq., on behalf of Deputy Sheriff **Harold Mower**, appealing his placement on Compulsory Leave by the Sheriff's Department.

RECOMMENDATION: Assign a Commissioner to conduct a hearing.

Staff recommendation approved. Commissioner Austin assigned.

9. **Mark Finch**, Audit-Appraiser II, appealing his placement on Compulsory Leave by the Assessor/Recorder/County Clerk. (See No. 10 below)

RECOMMENDATION: Deny Request.

Attorney Douglas Pettit, representing Mark Finch explained to the Commission that Appellant was placed on Administrative Leave on January 14, 2000 and subsequently placed on Compulsory Leave on February 14, 2000. Mr. Pettit stated that Appellant's lack of timeliness in filing an appeal with the Commission was due, in part, on the fact that Mr. Finch was not properly notified of his 10 day appeal right. He stated that Appellant was not aware of such appeal and timeline until April 24, 2000.

Deputy County Counsel Tony Albers, on behalf of the Department explained that Appellant was notified of his appeal rights, by attachments to the Department's notice of Compulsory Leave: DHR's Policy No. 0337 and Section 4.3.8 of the Compensation Ordinance.

Mr. Finch's Compulsory Leave appeal was filed almost two months late. It was Staff's recommendation that his request be denied due to the fact that he was properly informed of the appeal process by ARCC.

Motion by Brummitt to accept staff recommendation; seconded by Austin. Carried.

INVESTIGATIONS

10. **Mark Finch**, Audit-Appraiser II, requesting an Investigation of the conduct and operations of the Assessor/Recorder/County Clerk's Office as it relates to his placement on Compulsory Leave. (See No. 9 above)

RECOMMENDATION: Deny Request.

Motion by Brummitt to accept staff recommendation; seconded by Austin. Carried.

OTHER MATTERS

Extension of Temporary Appointments

11. Health and Human Services Agency

A. 1 Residential Care Worker Trainee (Rita Castro)

B. 6 Residential Care Worker I's (Jesus Sandoval, Elizabeth Testado, Angelina Corkum, Leticia Grimaldi, Sheila Coxsom, Cynthia Harris)

C. 1 Mental Health Program Manager (Deborah Malcarne)

D. 1 Legal Procedures Clerk II (Linda Edwards)

E. 1 Laundry Worker (Diego Rocamora)

12. Office of the District Attorney

1 District Attorney Investigator V (Michael Bishop)

13. Department of the Alternate Public Defender

A. 1 Public Defender Investigator Trainee (Gerald Maya)

B. 1 Deputy Alternate Public Defender I (Florence Cannata)

RECOMMENDATION: Ratify Item Nos. 11-13.

Item Nos 11-13 ratified.

14. Public Input.

ADJOURNMENT: 3:52

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE JUNE 7, 2000.